

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

CESAR E. ROMERO-MANZO,

Case No. 3:22-cv-00475-ART-CLB

Petitioner,

ORDER

v.

TIMOTHY GARRETT,

Respondents.

Pro se Petitioner Cesar E. Romero-Manzo has filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241. (ECF No. 1-1 (“Petition”).)

Petitioner has not properly commenced this habeas action by either paying the standard \$5.00 filing fee or filing an application for leave to proceed *in forma pauperis* (“IFP”). Pursuant to 28 U.S.C. § 1914(a) and the Judicial Conference Schedule of Fees, a \$5.00 filing fee is required to initiate a habeas action in a federal district court. The court may authorize an indigent prisoner to begin a habeas action without paying the \$5 fee if he or she submits an IFP application on the approved form and includes three specific documents: (a) the prisoner’s financial declaration and acknowledgement showing an inability to prepay fees and costs, (b) a financial certificate signed by the prisoner and an authorized prison official, and (c) a copy of the prisoner’s account statement for the six-month period prior to filing. 28 U.S.C. § 1915(a); LSR 1-1, LSR 1-2. Petitioner will have 45 days from the date of this order to either pay the \$5 filing fee or submit a complete IFP application with all required documentation.

Further, Petitioner is a prisoner in the custody of the Nevada Department of Corrections and is currently housed at Lovelock Correctional Center. Because Petitioner is in custody pursuant to a state-court judgment of conviction, the only proper basis for his claims is 28 U.S.C. § 2254. *See White v. Lambert*, 370 F.3d 1002, 1005–07 (9th Cir. 2004), *overruled on other grounds by Hayward v.*

1 *Marshall*, 603 F.3d 546, 555 (9th Cir. 2010) (en banc). As such, Petitioner has
2 not filed his petition on the appropriate form. Petitioner must, within 45 days of
3 the date of this order, file an amended petition on the § 2254 form for state
4 prisoners. In doing so, Petitioner is advised to follow the instructions on the form.

5 It is therefore ordered that within 45 days of the date of this order,
6 Petitioner must file an IFP application that includes: (a) a financial certificate
7 signed by Petitioner and an authorized prison official, (b) a financial declaration
8 and acknowledgement signed by Petitioner, and (c) a copy of Petitioner's inmate
9 account statement for the six-month period prior to filing. Alternatively, Petitioner
10 must pay the \$5 filing fee within 45 days. If Petitioner decides to pay the filing fee
11 from his inmate account, he must arrange to have a copy of this order attached
12 to the check for the filing fee.

13 It is further ordered that Petitioner must file an amended petition on the §
14 2254 form within 45 days of the date of this order. Petitioner must label it
15 "Amended Petition" and place the case number, 3:22-cv-00475-ART-CLB, in the
16 designated space.

17 It is further ordered that Petitioner's failure to timely comply with this
18 Order will result in the dismissal of this action without prejudice and without
19 further advance notice.

20 It is further ordered that the Clerk of Court will send Petitioner two blank
21 copies of the form petition for a writ of habeas corpus pursuant to 28 U.S.C. §
22 2254 along with instructions, two copies of this order, and a copy of the petition
23 [ECF No. 1-1].

24 DATED THIS 28th day of October 2022.

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27 ANNE R. TRAUM
28 UNITED STATES DISTRICT JUDGE